

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA, §  
Plaintiff, §  
v. § CRIMINAL NO. 3:15-CR-254-B (01)  
NOBLE EZUKANMA, §  
Defendant, §  
v. §  
OBIANUJU EZUKANMA, §  
Petitioner. §

## **MEMORANDUM OPINION AND ORDER**

Before the Court is Obianuju Ezukanma's (Ms. Ezukanma) Claim for Exemptions and Request for Hearing (Doc. 379), which Ms. Ezukanma filed in response to the United States's serving of pre-judgment writs of garnishment against entities possessing property of the Ezukanmas (Docs. 342–43). The Court DENIES Ms. Ezukanma's claim.

On March 24, 2017, a jury found Noble Ezukanma guilty of Medicare fraud. Doc. 256, Jury Verdict. And on September 13, 2017, the Court entered judgment against Mr. Ezukanma and ordered him to pay medicare \$34,003,151.24 in restitution. Doc. 363, Judgment.

The United States sought and received pre-judgment writs of garnishment against Mr. Ezukanma under 28 U.S.C. §§ 1651, 3101, 3102, and 3104, Doc. 340, Ex Parte App. for Writ of Garnishment; Doc. 341, Order Granting App. for Writ of Garnishment, and served them on entities

thought to possess property owned by the Ezukanmas, Doc. 342, Writ of Garnishment; Doc. 343, Writ of Garnishment; Doc. 344, Writ of Garnishment. Served with the writ documents was a Clerk's Notice of Exemptions, which listed property exempt from garnishment. *Id.* For example, “[w]earing apparel and school books,” 26 U.S.C. § 6334(a)(1); “[f]uel, provisions, furniture, and personal effects that do not exceed \$9,200,” *Id.* § 6334(a)(2), (g); and “[b]ooks and tools of a trade, business, or profession that do not exceed \$4,600,” *Id.* § 6334(a)(3), (g), are exempt from garnishment. *Id.*

Entities responded, stating they possessed Ezukanma property, including a 401(k) account, a defined benefit pension plan, and an incentive life account. Doc. 373, Answer to Writ of Garnishment; Doc. 380, Answer to Writ of Garnishment.

Subsequently, Ms. Ezukanma filed a claim for exemptions in which she requests a hearing and asserts that the United States is withholding property exempt under the following exemptions: “1, 2, 3.” Doc. 379, Claim for Exemption and Request for Hearing. The Clerk’s notice of exemptions lists the exempt categories of property enumerated at 26 U.S.C. § 6334(a)(1), (2), and (3) under the “1,” “2,” and “3,” respectively, so the Court assumes Ms. Ezukanma is arguing that property the United States wants to garnish is exempt under 26 U.S.C. § 6334(a)(1), (2), and (3).

When a court orders a criminal defendant to pay restitution, the Government obtains a federal tax lien on the defendant’s property until the restitution order expires or is satisfied. 18 U.S.C. § 3613(c). This lien allows the Government to enforce the judgment “against all property or rights to property of the person fined,” subject to certain exemptions. *Id.* § 3613(a); see *United States v. Decay*, 620 F.3d 534, 541 (5th Cir. 2010) (“The only property exempt from garnishment under § 3613(a) is property that the government cannot seize to satisfy the payment of federal income taxes.”). For example, the property described by 26 U.S.C. § 6334(a)(1), (2), and (3) is exempt from

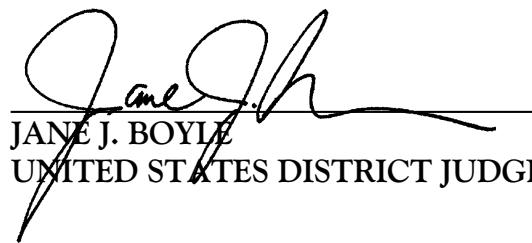
garnishment. 18 U.S.C. § 3613(a). The claimant has the burden of establishing that one of the exemptions applies. See *United States v. Gaudet*, 187 F. App'x 410, 412 (5th Cir. 2006) (per curiam) (unpublished).

Here, Ms. Ezukanma has presented no evidence that the United States is attempting to garnish “[w]earing apparel and school books,” 26 U.S.C. § 6334(a)(1); “[f]uel, provisions, furniture, and personal effects that do not exceed \$9,200,” *Id.* § 6334(a)(2), (g); or “[b]ooks and tools of a trade, business or profession that do not exceed \$4,600,” *Id.* § 6334(a)(3), (g). Ms. Ezukanma has thus failed to establish that an exemption applies. See *United States v. Urso*, No. 3:08-CV-1230-L, 2009 WL 2999521, at \*6 (N.D. Tex. Sept. 18, 2009) (denying claim based on same exemptions because it was clear that the United States had not garnished exempt property.)

Accordingly, the Court **DENIES** Ms. Ezukanma’s Claim for Exemptions and Request for Hearing.

**SO ORDERED.**

**SIGNED:** November 15, 2017.



JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE